

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARL CRENSHAW and FELICIA
HAMILTON,

Plaintiffs,

v.

THE ARBORS AT ANTELOPE,

Defendant.

No. 2:22-cv-000711 TLN AC PS

ORDER

Plaintiff Carl Crenshaw is proceeding in this action pro se on behalf of himself and purportedly on behalf of Felicia Hamilton. This matter was accordingly referred to the undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma pauperis (“IFP”) and has submitted the affidavit required by that statute. See 28 U.S.C. § 1915(a)(1). The motion to proceed IFP will therefore be granted.

I. SCREENING

The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Plaintiff must assist the court in determining whether or not the complaint is frivolous, by drafting the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”).

1 The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)
2 [policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

3 Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and
4 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this
5 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled
6 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief
7 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly.
8 Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in
9 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200),
10 Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

11 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
12 Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the
13 court will (1) accept as true all of the factual allegations contained in the complaint, unless they
14 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the
15 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327; Von
16 Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert.
17 denied, 564 U.S. 1037 (2011).

18 The court applies the same rules of construction in determining whether the complaint
19 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court
20 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must
21 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a
22 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520
23 (1972). However, the court need not accept as true conclusory allegations, unreasonable
24 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,
25 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice
26 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,
27 556 U.S. 662, 678 (2009).

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1 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to
 2 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has
 3 facial plausibility when the plaintiff pleads factual content that allows the court to draw the
 4 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at
 5 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity
 6 to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v.
 7 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in
 8 Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

9 II. THE COMPLAINT

10 Plaintiff sues the Arbors at Antelope, alleging that he and his family moved into the
 11 complex on December 9, 2021. ECF No. 1 at 5. Plaintiff alleges he informed the Arbors at
 12 Antelope of dangerous chemicals and mold that placed himself and his family in the intensive
 13 care unit. Id. Plaintiff identifies federal question as the basis for federal jurisdiction, writing
 14 “Human Rights, Discrimination, Negligence” where prompted to list the specific federal statutes,
 15 treaties, or provisions of the U.S. Constitution at issue. Id. at 4. Plaintiff is seeking \$250,000 in
 16 damages. Id. at 6. No additional facts are alleged.

17 III. FAILURE TO STATE A CLAIM

18 Plaintiff’s complaint cannot be served because it does not contain a “short and plain”
 19 statement setting forth the basis for federal jurisdiction, plaintiff’s entitlement to relief, or the
 20 relief that is sought, even though those things are required by Fed. R. Civ. P. 8(a)(1)-(3). The
 21 exact nature of what happened to plaintiff is unclear from the complaint, which does not explain
 22 what happened to plaintiff or what laws plaintiff believes were violated. The court cannot tell
 23 from examining the complaint what legal wrong was done to plaintiff, by whom and when, or
 24 how any alleged harm is connected to the relief plaintiff seeks.

25 Additionally, the complaint does not establish this court’s jurisdiction. “Federal courts are
 26 courts of limited jurisdiction.” Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377,
 27 (1994). In 28 U.S.C. §§ 1331 and 1332(a), “Congress granted federal courts jurisdiction over two
 28 general types of cases: cases that “aris[e] under” federal law, § 1331, and cases in which the

1 amount in controversy exceeds \$ 75,000 and there is diversity of citizenship among the parties, §
2 1332(a). These jurisdictional grants are known as “federal-question jurisdiction” and “diversity
3 jurisdiction,” respectively. Home Depot U. S. A., Inc. v. Jackson, 139 S. Ct. 1743, 1746 (2019),
4 reh’g denied, No. 17-1471, 2019 WL 3538074 (U.S. Aug. 5, 2019). Though plaintiff claims there
5 is federal question jurisdiction, he does not identify any specific federal law or constitutional
6 provision that was violated. He must identify a federal law or constitutional right that is at issue
7 to establish federal jurisdiction.

8 Finally, plaintiff seeks to represent another individual in this case, which he cannot do.
9 As a pro se litigant, plaintiff can represent only himself. Simon v. Hartford Life, Inc., 546 F.3d
10 661, 664 (9th Cir. 2008) (“[C]ourts have routinely adhered to the general rule prohibiting pro se
11 plaintiffs from pursuing claims on behalf of others in a representative capacity.”). Additional
12 plaintiffs must represent themselves, sign the pleadings themselves on their own behalf, and
13 submit their own applications to proceed in forma pauperis (or pay the filing fee).

14 Rather than recommending dismissal of the action, the undersigned will provide plaintiff
15 an opportunity to amend the complaint to allege a proper basis for jurisdiction and facts
16 supporting a cognizable cause of action.

17 IV. AMENDING THE COMPLAINT

18 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
19 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
20 statement of plaintiff’s claims. The allegations of the complaint must be set forth in sequentially
21 numbered paragraphs, with each paragraph number being one greater than the one before, each
22 paragraph having its own number, and no paragraph number being repeated anywhere in the
23 complaint. Each paragraph should be limited “to a single set of circumstances” where
24 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
25 complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor
26 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

27 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid
28 narrative and storytelling. That is, the complaint should not include every detail of what

1 happened, nor recount the details of conversations (unless necessary to establish the claim), nor
2 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should
3 contain only those facts needed to show how the defendant legally wronged the plaintiff.

4 The amended complaint must not force the court and the defendants to guess at what is
5 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)
6 (affirming dismissal of a complaint where the district court was "literally guessing as to what
7 facts support the legal claims being asserted against certain defendants"). The amended
8 complaint must not require the court to spend its time "preparing the 'short and plain statement'
9 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not
10 require the court and defendants to prepare lengthy outlines "to determine who is being sued for
11 what." Id. at 1179.

12 Also, the amended complaint must not refer to a prior pleading in order to make plaintiff's
13 amended complaint complete. An amended complaint must be complete in itself without
14 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended
15 complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline
16 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) ("[n]ormally, an amended complaint
17 supersedes the original complaint") (citing 6 C. Wright & A. Miller, Federal Practice &
18 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an
19 original complaint, each claim and the involvement of each defendant must be sufficiently
20 alleged.

21 V. PRO SE PLAINTIFF'S SUMMARY

22 It is not clear that this case can proceed in federal court. The court cannot tell from your
23 complaint what legal harm was done to you. It is also not clear that any federal laws or
24 constitutional provisions are at issue, and because of this, there does not appear to be federal
25 jurisdiction. Because the complaint as written does not clearly explain what happened to you and
26 how federal laws were violated, it will not be served on defendants. Your lawsuit cannot proceed
27 unless you fix the problems with your complaint.

28 You are being given 30 days to submit an amended complaint that provides enough facts

1 for the court to determine if a cause of action exists and that states a proper basis for federal
2 jurisdiction. If you submit an amended complaint, it needs to explain in simple terms what laws
3 or legal rights of yours were violated, by whom and how, and how those violations impacted you.
4 Without this information, the court cannot tell what legal claims you are trying to bring against
5 the defendants. If you do not submit an amended complaint by the deadline, the undersigned will
6 recommend that the case be dismissed.

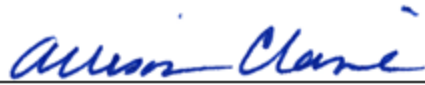
7 You can only represent yourself. Any other individual who wishes to be a plaintiff in this
8 action, including Felicia Hamilton, must sign the amended complaint on their own behalf and
9 either pay the filing fee or submit a request for leave to proceed in forma pauperis.

10 VI. CONCLUSION

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 13 2. Plaintiff shall have 30 days from the date of this order to file an amended complaint that
14 names defendants who are amenable to suit, and which complies with the instructions
15 given above. If plaintiff fails to timely comply with this order, the undersigned may
16 recommend that this action be dismissed.

17 DATED: May 3, 2022

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19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
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